

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

JOHN MCCARTHY,
Petitioner

v.

DAVID EBBERT,
Respondent

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: CIVIL NO. 1:12-CV-2322
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O R D E R

AND NOW, this 1st day of April, 2013, upon consideration of the report and recommendation of the magistrate judge (Doc. 10), filed March 1, 2013, to which no objections were filed, and upon independent review of the record, it is ORDERED that:

1. The magistrate judge's report is adopted.
2. Petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 (Doc. 1) is DISMISSED without prejudice to Petitioner filing a separate Bivens civil rights action.
3. The Clerk of Court shall close this file.
4. A certificate of appealability is denied.

/s/ William W. Caldwell
William W. Caldwell
United States District Judge